

# INPUT TAX CREDIT IN GST

CA Aarchana Yadav  
14.06.2017

# PRESENTATION PLAN

Legal Provisions

ITC Concepts

Eligibility for ITC

Features of ITC Provisions

Transitional Provisions

ISD & its Features

Cross Utilization

# DEFINITIONS

## ➤ Does Law define

- ✓ Input - 2 (59) *“means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business”*
- ✓ Input Service - 2(60) *“means any service used or intended to be used by a supplier in the course or furtherance of business”*
- ✓ Input Tax Credit - 2(63) *“means the credit of input tax”*
- ✓ Electronic Credit Ledger - 2(46) *“The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.”*

# DEFINITIONS

## ✓ Input Tax - 2(62)

(62) “input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—


(a) the integrated goods and services tax charged on import of goods; 

(b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;

(c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;

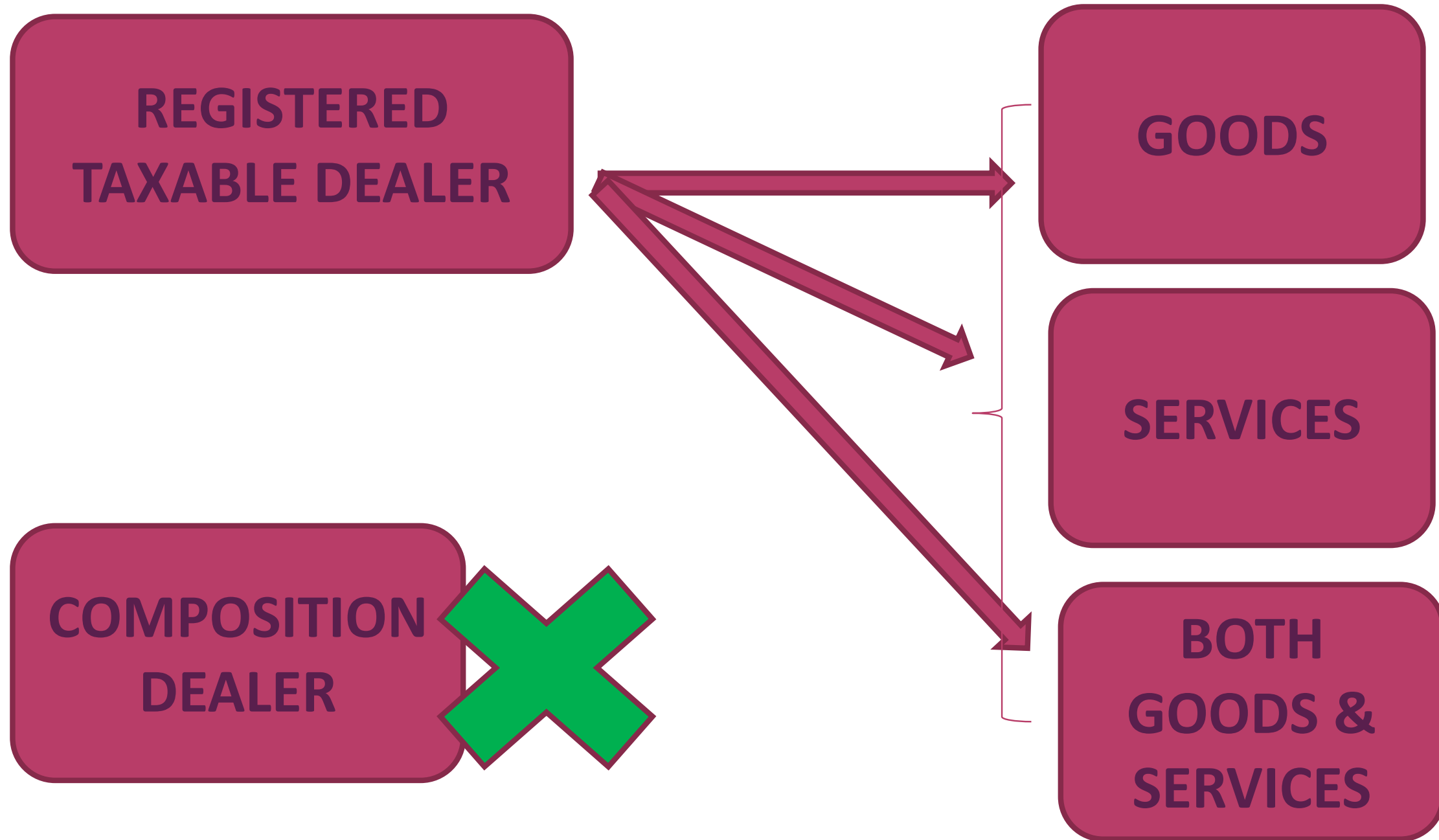
(d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or

(e) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy; 

# ELIGIBILITY

✓ Input Tax - 16 (1)

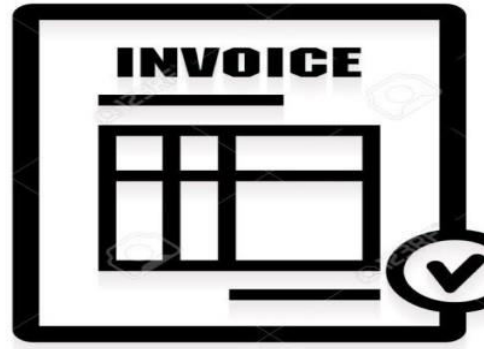


*Used or intended to be used in the course or furtherance of business*

# When should I take credit?

✓ Input Tax -  
16 (2)

1



Is in possession of  
a tax invoice ( not  
earlier than 1 year)

2



Goods/services  
are received



3



Tax on such goods are  
deposited with the  
Government by supplier

4



He has furnished  
return

# ITC - CONDITIONS

## Section 16

- ✓ 1<sup>st</sup> Proviso - last lot/ instalment
- ✓ 2<sup>nd</sup> Proviso - Consideration + Tax not paid within 180 days

### No ITC where:

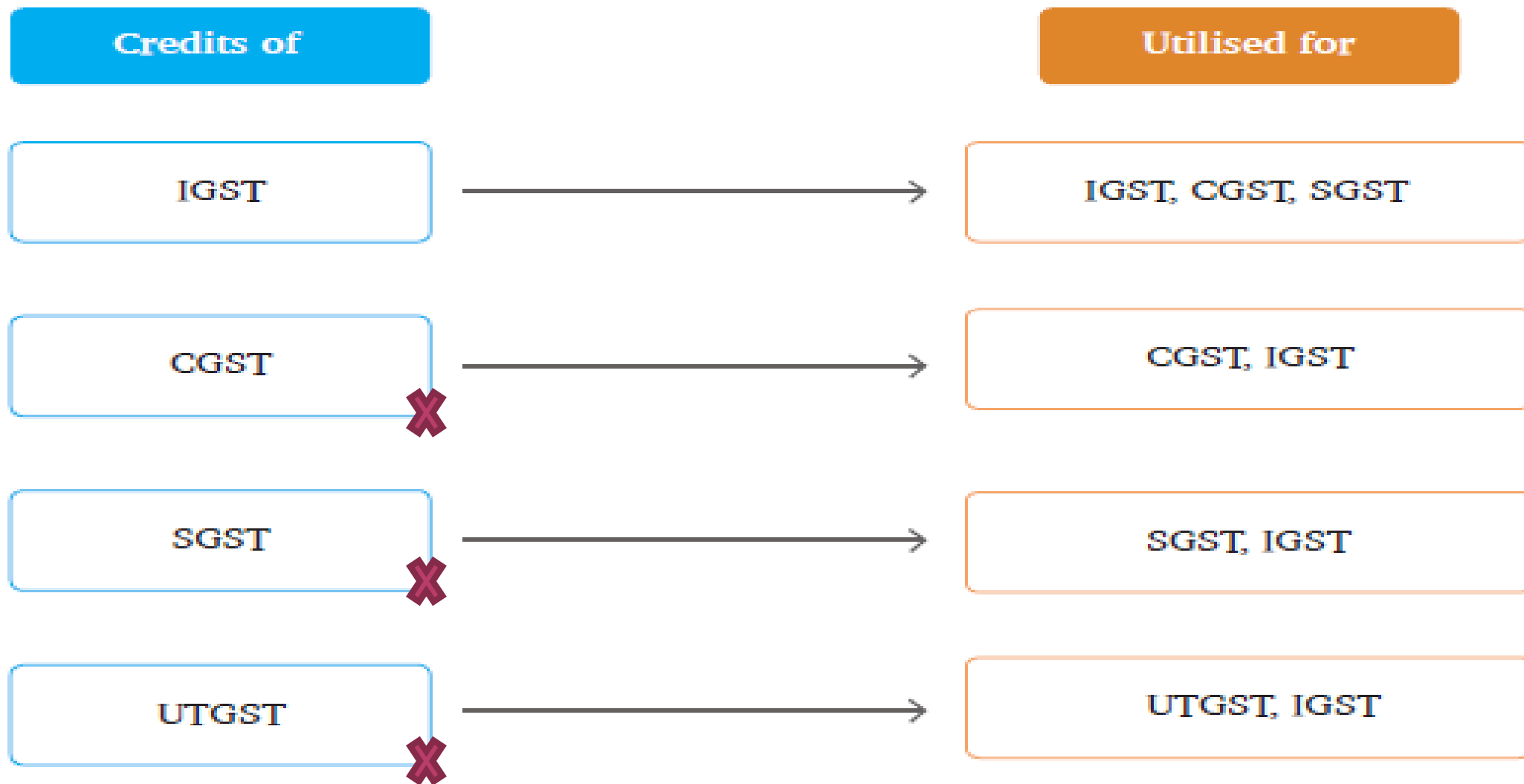
- ✓ “Tax paid” is in pursuance of any **demand order on account of fraud, wilful misstatement or suppression of facts;**
- ✓ **Depreciation** under Income Tax law claimed on tax component  
:Section -16(3)

Claim in relation to an invoice/ debit note to be made latest by:

- ✓ **20<sup>th</sup> October** of FY following the FY to which the invoice for supply pertains; or
- ✓ Date of furnishing the **Annual Return** *if furnished prior to 20<sup>th</sup> Oct.*

# ITC (CREDIT) SET OFF UNDER GST

## Utilization Of Credit



Buyer gets input credit **only** after seller pays GST & files return



# BLOCKED CREDITS

- Partly business & partly others - as is attributable to business
- Motor Vehicles & Conveyances unless used for:
  - ✓ Further supply of such vehicles or conveyances
  - ✓ Transportation of passengers
  - ✓ Imparting training on driving, flying, navigating such conveyances
  - ✓ Transportation of goods
- Supplies received by a non-resident taxable person except when - “Goods imported by him” 17(5)(f)
- Inward supplies used for personal consumption - Sec 17(5)(g)
- Goods lost, stolen, destroyed, written off or disposed of as gift or free samples - Sec 17(5)(h)

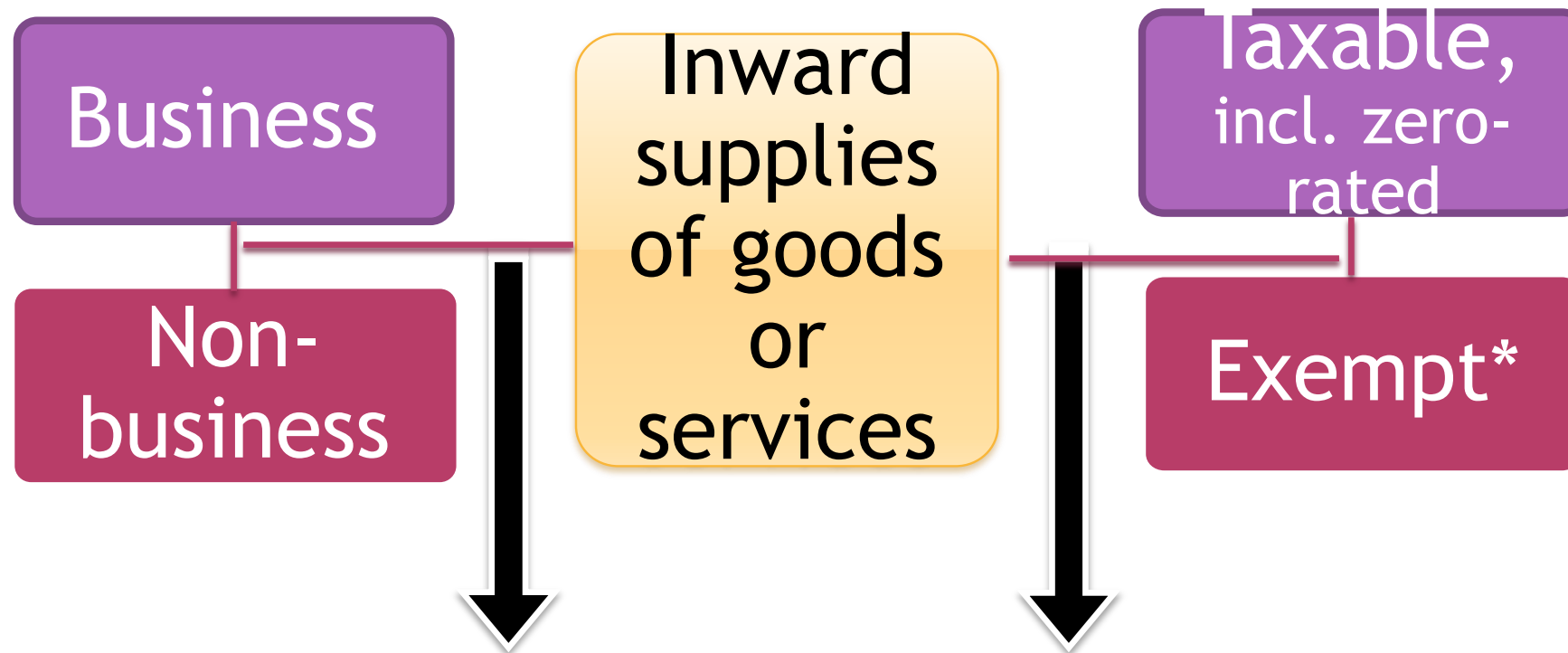
# BLOCKED CREDITS

- Below inward supplies unless used for making outward supply of same category:
  - ✓ Food and beverages;
  - ✓ Outdoor catering;
  - ✓ Beauty treatment;
  - ✓ Health services;
  - ✓ Cosmetic and plastic surgery
- Membership of a club, health and fitness centre
- Rent-a-cab, life insurance and health insurance unless notified as obligatory on part of the employer
- **Travel benefits** extended to employees on vacation such as LTC
- Inward works contract service for **construction of immovable property** - unless used for further supply of WC service - Sec

# BLOCKED CREDITS

- Inward supplies for **construction of immovable property** (other than plant or machinery) on own account
- Inward supplies on which tax paid is **composition tax**
- Any tax that has been paid u/s 74, 129 and 130 - **Sec 17(5)(i)**
- Tax not paid/ short paid/ erroneously refunded, or ITC wrongly availed by reason of **fraud** or any wilful misstatement or suppression of facts  
Goods on which tax has been paid on **detention or confiscation**

# ITC RESTRICTIONS



***ITC allowed to the extent of tax attributable to:***

- Taxable supplies***
- Purposes of business***

***\* i.e., outward supplies that are nil-rated or exempted by way of notification or non-taxable or taxable on RCM basis or transactions in securities, sale of land, sale of building after issuance of completion certificate***

# SPECIAL PROVISIONS - BANKING & FINANCIAL COMPANIES

**Banking & Financial companies** (incl. NBFCs) engaged in supplying services by way of accepting deposits, extending loans or advances and having both types of supplies (taxable & exempt) have **2 options**

**Inward supplies of goods or services**

**Taxable, incl. zero-rated**

**Exempt**

**Exercisable at the beginning of year**

***Normal provisions: ITC to the extent of tax attributable to taxable supplies***

**Monthly availment of 50% of the ELIGIBLE ITC in that month (balance lapses).**

- 50% restriction not applicable to supplies between 'distinct persons'***

# ITC ELIGIBILITY IN SPECIAL CASES

**Credit will be allowed in respect of inputs held in stock and contained in semi-finished goods/ finished goods held in stock existing on the day immediately preceding:**

New registration

- The date of becoming liable to pay tax
  - *If registration is applied for within 30 days of becoming liable, and is granted - Section 18(1)(a)*

Voluntary registration

- The date of grant of registration - Section 18(1)(b)

Composition to regular

- The date from which he becomes liable to pay tax under the regular scheme of levy\*\* - Section 18(1)(b)

**\*\* Credit available on capital goods as well**

*Conditions apply*

# ITC ELIGIBILITY IN SPECIAL CASES

**Credit will be allowed in respect of inputs held in stock and contained in semi-finished goods/ finished goods held in stock AND capital goods existing on the day immediately preceding:**

Exempt supply to taxable supply  
Section 18(1)(d)

- The date supply becomes taxable
  - ⑩ *Inputs i.e., in relation to supply of exempt supplies*
  - ⑩ *Capital goods i.e., used exclusively for the exempt supplies*

Conditions apply

# ITC ELIGIBILITY IN SPECIAL CASES

## Credit will be allowed subject to the below CONDITIONS:

- Credit only in respect of those invoices which are not older than 1 yr
- Credit on **capital goods** - to be reduced by 5% per quarter (whole/ part), calculated from the date of invoice
- Declaration in **Form GST ITC- 01** to be filed within 30 days of becoming eligible for credit under the 4 special cases under Sec 18(1)(a)/(b)(c)/(d)
  - ❖ To be certified by a CA/ cost accountant if claim > 2 Lakhs;
  - ❖ Details in declaration will be verified with details in Form GSTR-1 and GSTR-4 on GST portal (*in cases of switchover from composition to regular, or on exempt to taxable*).



# ITC – CHANGE IN THE CONSTITUTION

- Sale
- Merger
- Demerger<sup>#</sup>
- Amalgamation
- Lease
- Transfer/ change in ownership of business

**ITC remaining unutilized** in books of such registered persons can be transferred

**Transferee**

## CONDITIONS

1. Transferor to file request to transfer unutilised ITC in **Form GST ITC-02**;
2. Certificate by CA/ cost accountant that change in constitution has taken place with a **specific provision for transfer of liabilities.**
3. **Transferee to accept** details furnished;
4. **Transferee to account for the inputs & capital goods transferred;**

**# ITC to be apportioned in the ratio of value of assets in the new unit.**

# REVERSAL OF INPUT TAX CREDIT

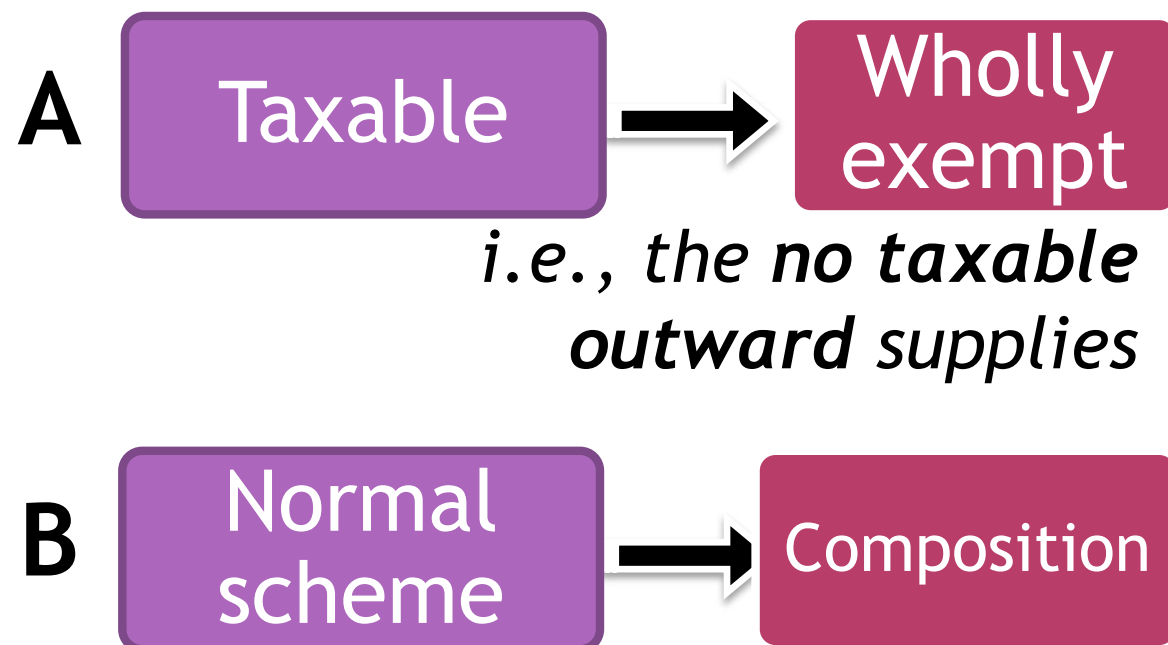
**Amount = ITC on:**

- **inputs** (held in stock/ contained in semi-finished/ finished goods in stock) and
- **capital goods** (reduced by % points prescribed)

**On the day immediately preceding:**

- The date of exemption;**
- The date of switchover. -**  
**Section 18(4)**

**In the below cases, an amount shall be payable either through input tax credit or by cash:**



**ANY BALANCE IN CREDIT LEDGER AFTER SUCH REVERSAL SHALL LAPSE.**

# AMOUNT PAYABLE IN CASE OF SUPPLY OF CG & PM<sup>\$</sup>

Amount payable shall be higher of:

ITC taken on the CG/ PM reduced by prescribed %

Tax on the transaction value

However, in case of scrapping of refractory bricks, moulds and dies, jigs and fixtures, tax may be paid on the transaction value.

*<sup>\$</sup>Plant and machinery: Means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both; and*

- *Includes such foundation and structural supports; but*
- *Excludes land, building or any other civil structures, telecommunication towers and pipelines laid outside the factory premises.*

# JOB WORK

Tax-free dispatch for job work (“JW”) to be made under an intimation

- Principal **allowed ITC** on inputs and capital goods sent for JW, even if directly sent to JW premises before first receiving them
- Can be sent from premises of one JW to that of another

**Delivery challan** to be raised by the Principal at the time of removal of goods for JW

- Even in case goods are directly sent for JW
- DC to contain details of date, GSTIN of JW if registered, taxable amount, place of supply, etc.
- Details of goods sent/ received during a month to be declared in returns

# JOB WORK

Supply deemed to be made on date of sending such goods if:

- Inputs not received within 1 year of dispatch
- Inputs **directly dispatched** from job worker's premises within 1 year of dispatch - permitted only if:
  - ⑩ Job worker's premises is declared as 'additional place of business'; or
  - ⑩ Job worker is a registered person; or
  - ⑩ Principal is engaged in the supply of certain notified goods.
- Capital goods not received back within 3 years of dispatch
  - ⑩ ***Not applicable to moulds and dies, jigs and fixtures, or tools***
- Delivery challan would work as invoice in the above

Inputs/ capital goods can be received at any of the places of business of the principal

# INPUT SERVICE DISTRIBUTOR (ISD)

ITC distribution only on **tax invoices received for input services**

- Only to other units of the same person (i.e., same PAN)

Even **suppliers of goods** can be ISDs

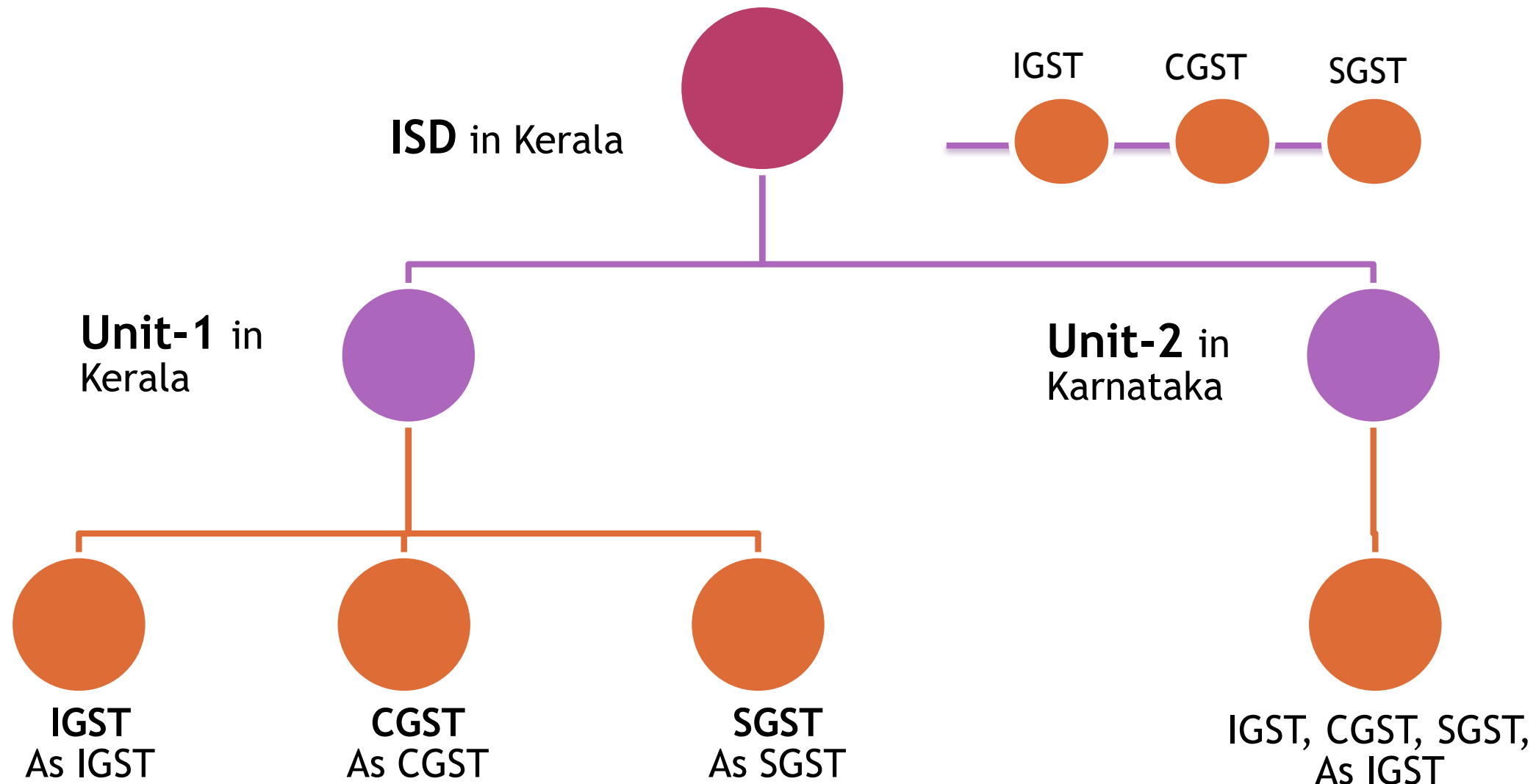
Distribution only to those units to which the service is attributable

ISD to distribute by way of an **ISD Invoice**

- **Separate invoice** for CGST, SGST (or UTGST) and IGST:

Distribution to be done in the **same month** in which ITC becomes available to ISD

# INPUT SERVICE DISTRIBUTOR



# INPUT SERVICE DISTRIBUTOR

## Distribution mechanism:

- If invoice attributable only to one unit:
  - Distribution only to such unit
- If attributable to 2/more units:
  - Pro rata ratio of turnover in State
- Distribution to units to which service is attributable regardless of whether:
  - operational/ non-operational;
  - registered/ unregistered;
  - supplying goods/ services/ both;
  - supplying taxable/ exempt supplies
- Any excess credit distributed will be recovered with interest from the units that received such excess credit along with interest.



# 140(1)- TRANSITION

- ⦿ **entitled** to take, in his electronic credit ledger, the amount of **CENVAT credit**
- ⦿ carried forward in **the return relating** to the period ending with the day immediately **preceding** the appointed day,
- ⦿ Central Excise , Service Tax = CGST Electronic Credit Ledger
- ⦿ State Vat & Entry tax = SGST Electronic Credit Ledger
  
- ⦿ **Provided**
  - Credit is admissible under GST Act
  - Furnished all his returns under current law for last six months immediately preceding the appointed day
  - Goods are not cleared under any specific exemption notification notified by Govt

# 140(2)-CAPITAL GOODS- TRANSITION

- credit of the un-availed CENVAT credit
- Capital Goods
- Not seen in return of current law
- For the period ending with the day immediately preceding the appointed day
- Provided
  - unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

Not Allowed



140(3)-

# UNREGISTERED REGISTERED-TRANSITION

## Section 140 (3) - Registered Person who was

- *not registered under earlier laws*
- *engaged in manufacture of exempted goods/services*
- *Works Contract u/N 26/2012 dated 20.06.2012.*
- *First stage Dealer*
- *Second Stage Dealer*
- *Registered Importer*
- *Depot of Manufacturer*

## 140(3)-

# UNREGISTERED REGISTERED TRANSITION

- Duty paying document available
  - ✓ Dealer entitled for input credit under GST
  - ✓ Invoice not more than 12 months old on appointed day
  - ✓ for service provider , not taking any abatement in GST
  
- Duty paying document not available
  - ✓ Other than manufacturer & Service Provider
  - ✓ 40 % of CGST Liability (if GST rate is <18%)
  - ✓ 60% of CGST Liability (if GST rate is >18%)
  - ✓ Pass on the credit to customers by reduced prices

## 140(4)-

### EXEMPTED & NON EXEMPTED GOODS TRANSITION

- engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944
- provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994
- but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger as per

**Section 140 (1) for taxable goods**

**Section 140 (3) for exempted goods**

# 141-JOB WORK -TRANSITION

- Goods removed in existing law (Central Excise)
- Without payment of duty
- Inputs/Semi -finished/ Finished Goods
- Goods returned within 6 months
- **Extended for 2 by Commissioner on request**
- **If Not returned :**
  - ✓ Input tax credit originally in earlier law taken will be reversed and
  - ✓ tax will be payable on it
- **Declare the goods/Capital assets lying with Job Worker on behalf of principal**



**THANK YOU**

**CA Aarchana Yadav**